

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X	Docket#
UNITED STATES OF AMERICA :	03-cr-372
:	
- versus - :	U.S. Courthouse
:	Brooklyn, New York
ANGEL RODRIGUEZ, :	
:	
:	September 21, 2004
-----X	

TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING
BEFORE THE HONORABLE CHERYL L. POLLAK
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S :

For the Government: **Roslynn R. Mauskopf, Esq.**
 United States Attorney

BY: **Jack Smith, Esq.**
 Assistant U.S. Attorney
 225 Cadman Plaza East
 Brooklyn, New York 11201

For the Defendant: **Francisco Celedonio Esq.**

Official Transcriber: **Rosalie Lombardi**
 L.F.

Transcription Service: **Transcription Plus II**
 823 Whittier Avenue
 New Hyde Park, N.Y. 11040
 (516) 358-7352

Proceedings recorded by electronic sound-recording,
transcript produced by transcription service

Proceedings

2

1 THE COURT: This is United States of
2 America v. Angel Rodriguez, 02-cr-372 -- is
3 that right?

4 MR. SMITH: That's correct, Judge.

5 THE COURT: 2, okay. Because on the
6 superseding information --

7 THE CLERK: I think it's 03.

8 THE COURT: -- it says 03.

9 MR. SMITH: I'm sorry, 03, it is,
10 Judge; yes.

11 THE COURT: So, it's 03. Okay. And
12 I'm going to correct that on the plea
13 agreement, as well. Okay.

14 Counsel, please state your appearances
15 for the record.

16 MR. SMITH: Jack Smith for the United
17 States.

18 MR. CELEDONIO: Francisco Celedonio
19 for Mr. Angel Rodriguez.

20 Good morning, your Honor.

21 THE COURT: Good morning.

22 Good morning, Mr. Rodriguez.

23 I take it that you understand English.

24 THE DEFENDANT: Yes.

25 THE COURT: Okay. If at any point

Proceedings

3

1 during these proceedings, I say something
2 that you don't understand, please tell me;
3 okay?

4 THE DEFENDANT: Thank you.

5 THE COURT: The first issue that I
6 want to deal with is your consent to have me
7 hear your plea. You understand that this is
8 Judge Gleeson's case and he is the United
9 States district judge who will sentence you
10 and who will make the ultimate decision as to
11 whether or not to accept your plea of guilty.

12 If you wish, you have the absolute
13 right to have Judge Gleeson hear your plea and
14 if you choose to do that, there will be no
15 prejudice to you.

16 On the other hand, if you wish, I will
17 hear your plea this morning and a transcript
18 of these proceedings will be made from the
19 tape recorder on my law clerk's desk and that
20 transcript will be given to Judge Gleeson to
21 review at the time of your sentence and when
22 he makes his decision as to whether or not to
23 accept your plea of guilty.

24 Do you wish to give up your right to
25 have Judge Gleeson hear your plea and proceed

Proceedings

4

1 instead before me this morning?

2 THE DEFENDANT: Yes.

3 THE COURT: Okay.

4 THE COURT: Do you make this decision
5 voluntarily and of your own free will?

6 THE DEFENDANT: Yes.

7 THE COURT: Has anyone made any
8 threats or promises to get you to agree to
9 have me hear your plea?

10 THE DEFENDANT: No.

11 THE COURT: My law clerk is going to
12 show you the order of referral that I believe
13 you may have signed earlier. Can you tell me,
14 sir, is that your signature there on the form?

15 THE DEFENDANT: Yes, it is.

16 THE COURT: Okay.

17 And I will note for the record that it
18 has been signed by counsel for the defendant,
19 by the assistant United States attorney, I
20 think, and I am going to endorse it, as well.

21 Actually it hasn't been signed by you,
22 Mr. Smith. Maybe you want to sign it.

23 MR. SMITH: I didn't want to
24 interrupt.

25 THE COURT: Okay.

Proceedings

5

1 Now Mr. Rodriguez, before I can hear
2 your plea, there are a number of questions
3 that I must ask you to insure that it is a
4 valid plea. Again, if you don't understand
5 any of my questions, just tell me and I'll
6 rephrase them; okay?

7 THE DEFENDANT: Okay. Thank you.

8 THE COURT: Okay.

9 A N G E L R O D R I G U E Z,
10 called as a witness, having been first duly
11 sworn, was examined and testified as
12 follows:

13 THE COURT: Do you understand that
14 having been sworn, your answers to my
15 questions will be subject to the penalties of
16 perjury or making a false statement if you
17 don't answer them truthfully.

18 Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: What is your full name?

21 THE DEFENDANT: Angel L. Rodriguez.

22 THE COURT: And how old are you?

23 THE DEFENDANT: I'm 30 -- 33.

24 THE COURT: I'm sorry?

25 THE DEFENDANT: 33.

Proceedings

6

1 THE COURT: 33.

2 What education have you had?

3 THE DEFENDANT: I graduated high
4 school.

5 THE COURT: Okay.

6 Have you had any problems
7 communicating with your attorney?

8 THE DEFENDANT: No.

9 THE COURT: Counsel, have you had any
10 problems communicating with your client?

11 MR. CELEDONIO: None, your Honor.

12 THE COURT: Mr. Rodriguez, are you
13 presently or have you recently been under the
14 care of either a physician or a psychiatrist?

15 THE DEFENDANT: No.

16 THE COURT: In the last 24 hours, have
17 you taken any narcotic drugs?

18 THE DEFENDANT: No.

19 THE COURT: Any medicine or pills of
20 any kind?

21 THE DEFENDANT: No.

22 THE COURT: Have you had any alcohol
23 to drink in the last 24 hours?

24 THE DEFENDANT: No.

25 THE COURT: Have you ever been

Proceedings

7

1 hospitalized or treated for a narcotics
2 addiction?

3 THE DEFENDANT: No.

4 THE COURT: Have you ever been treated
5 for any mental or emotional problems?

6 THE DEFENDANT: No.

7 THE COURT: As you sit here before me
8 today, is your mind clear?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand what
11 we're doing here today?

12 THE DEFENDANT: Yes.

13 THE COURT: Have you received a copy
14 of the superseding information?

15 THE DEFENDANT: Yes.

16 THE COURT: The information charges
17 you within or about April 10, 1999, within the
18 Eastern District of New York, you having
19 knowledge of the actual commission of a
20 felony, cognizable by a court of the United
21 States, specifically, conspiracy to punish a
22 person for non-payment of credit, did
23 knowingly and intentionally conceal and did
24 not as soon as possible make known the same to
25 a judge or other person in civil or military

Proceedings

8

1 authority under the United States.

2 Now, do you understand what you've
3 been charged with?

4 THE DEFENDANT: Yes.

5 THE COURT: In other words, you've
6 been charged with knowing that there was an
7 agreement to punish somebody because he wasn't
8 paying his debts and you didn't tell anyone in
9 authority in about it --

10 THE DEFENDANT: Yes.

11 THE COURT: -- when you should have.
12 Do you understand that?

13 THE DEFENDANT: I understand.

14 THE COURT: Okay.

15 Now this is a felony charge and
16 because it is a felony charge, you are
17 entitled to be charged by an indictment
18 brought by a grand jury.

19 Now a grand jury is a group of at
20 least 16 and not more than 23 people who
21 listen to the evidence presented by the
22 government and they make a determination as to
23 whether or not there is probable cause to
24 believe that you've committed the crime that
25 the government is seeking to charge you with

Proceedings

9

1 here.

2 At least 12 of those grand jurors must
3 determine that there is probable cause to
4 believe that you committed the crime or an
5 indictment will not enter. Now you can insist
6 on having your case presented to the grand
7 jury and having them decide whether or not
8 there's sufficient evidence to indict you. Or
9 you can waive your right, give up your right
10 to have your case presented to the grand jury
11 and proceed on this information just as if the
12 grand jury had heard the evidence and voted to
13 indict you.

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Have you discussed waiving
17 your right to have your case presented to the
18 grand jury with your attorney?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay.

21 And do you understand your right to be
22 indicted by the grand jury?

23 THE DEFENDANT: Yes.

24 THE COURT: Has anyone made any
25 threats or promises to get you to waive

Proceedings

10

1 indictment?

2 THE DEFENDANT: No.

3 THE COURT: Do you wish at this time
4 to waive your right to be indicted by the
5 grand jury?

6 THE DEFENDANT: Yes.

7 THE COURT: Counsel, do you know of
8 any reason why the defendant should not waive
9 indictment?

10 MR. CELEDONIO: None, your Honor.

11 THE COURT: I have the waiver of
12 indictment form here. I just note that
13 Mr. Rodriguez's name appears to be spelled
14 wrong. So, maybe -- first of all, could you
15 show the waiver to Mr. Rodriguez and see if
16 that's his signature and then maybe we ought
17 to fix the spelling of his name.

18 THE DEFENDANT: Yeah, my last name is
19 spelled wrong.

20 THE CLERK: There is an I in there?

21 THE COURT: There's an I in there,
22 right, Mr. Rodriguez?

23 THE DEFENDANT: There's an I.

24 THE COURT: Yes.

25 THE DEFENDANT: And the G is before

Proceedings

11

1 the U.

2 THE COURT: Okay.

3 THE DEFENDANT: Yes.

4 THE COURT: Is that your signature
5 though at the bottom?

6 THE DEFENDANT: Yes, it is.

7 THE COURT: Okay. Why don't we
8 correct the spelling.

9 THE CLERK: Is this the correct
10 spelling here?

11 THE DEFENDANT: Yes.

12 THE COURT: And have everybody initial
13 the change. Just make sure I spelled it right
14 now.

15 I find that the defendant has been
16 advised of his rights and that he has hereby
17 entered a knowing and voluntary waiver to his
18 right to be indicted by the grand jury. And I
19 am endorsing the waiver of indictment form, as
20 well.

21 Counsel, have you discussed the matter
22 of pleading guilty with your client?

23 MR. CELEDONIO: Yes, I have,
24 your Honor.

25 THE COURT: Does he understand the

Proceedings

12

1 rights that he will be waiving by pleading
2 guilty?

3 MR. CELEDONIO: Yes, he does,
4 your Honor.

5 THE COURT: In your view, is he
6 capable of understanding the nature of these
7 proceedings?

8 MR. CELEDONIO: Yes, your Honor.

9 THE COURT: Do you have any doubt as
10 to his competence to plead at this time?

11 MR. CELEDONIO: None, your Honor.

12 THE COURT: Have you advised him of
13 the maximum sentence and the fine that can be
14 imposed as a result of his plea here?

15 MR. CELEDONIO: Yes, your Honor.

16 THE COURT: And have you discussed
17 with him the operation of the sentencing
18 guidelines and the possible application of the
19 Blakely decision?

20 MR. CELEDONIO: Yes, your Honor.

21 THE COURT: Mr. Rodriguez, do you feel
22 that you've had enough time to discuss your
23 case with your attorney?

24 THE DEFENDANT: Yes.

25 THE COURT: And are you satisfied to

Proceedings

13

1 have him represent you?

2 THE DEFENDANT: Yes, I am.

3 THE COURT: Okay.

4 I want to make sure that you
5 understand the rights that you will be giving
6 up if you decide to plead guilty to this
7 charge.

8 If you were to plead not guilty, under
9 the Constitution and the laws of the United
10 States, you would be entitled to a speedy and
11 public trial by jury with the assistance of
12 counsel on the charge contained in the
13 superseding information.

14 Do you understand that?

15 THE DEFENDANT: I'm sorry.

16 (Counsel and client confer)

17 THE DEFENDANT: Okay. Yes, thank you.

18 THE COURT: Do you understand it?
19 Okay. In other words, you've said you want to
20 plead guilty but if you were to plead not
21 guilty, I'm trying to explain to you what your
22 rights are. The first of those is that you
23 would be entitled to a speedy trial with
24 counsel's assistance --

25 THE DEFENDANT: Okay.

Proceedings

14

1 THE COURT: on the charges.

2 THE DEFENDANT: Okay.

3 THE COURT: Do you understand that?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: Okay.

6 At the trial, you would be presumed
7 innocent. The government would have to
8 overcome that presumption and prove you guilty
9 by competent evidence and beyond a reasonable
10 doubt.

11 You would not have to prove that you
12 were innocent. If the government were to
13 fail, the jury would have the duty to find you
14 not guilty.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: In the course of a trial,
18 the witnesses for the government would have to
19 come to court. They would have to testify in
20 your presence and your attorney would have the
21 right to cross-examine those witnesses for the
22 government, to object to any evidence offered
23 by the government and to offer evidence on
24 your behalf.

25 Do you understand that?

Proceedings

15

1 THE DEFENDANT: Yes, I do.

2 THE COURT: At the trial, while you
3 would have the right to testify if you chose
4 to do so, you could not be forced to testify.
5 Under the Constitution of the United States, a
6 defendant in a criminal case cannot be forced
7 to take the witness stand and say anything
8 that could be used to show that he is guilty
9 of the crime with which he's been charged.

10 If you were to decide not to testify,
11 the Court would instruct the jury that they
12 could not hold that decision against you.

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: If you plead guilty on the
16 other hand, I'm going to have to ask you
17 certain questions about what it is that you
18 did in order to satisfy myself that you are,
19 in fact, guilty of the charge to which you
20 seek to plead guilty. And you're going to
21 have to answer my questions and acknowledge
22 your guilt.

23 Thus, you will be giving up that right
24 that I just described; namely, the right not
25 to say anything that could be used to show

Proceedings

16

1 that you are guilty of the crime with which
2 you've been charged.

3 Do you understand that?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: If you plead guilty and I
6 recommend to Judge Gleeson that he accepts
7 your plea, you will be giving up your
8 constitutional right to a trial and all of the
9 other rights that I have just described.
10 There will be no further trial of any kind.
11 Judge Gleeson will simply enter a judgment of
12 guilty based upon your guilty plea.

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Are you willing to give up
16 your right to a trial and the other rights
17 that I have just described?

18 THE DEFENDANT: Yes.

19 THE COURT: All right.

20 Now, I understand there is a written
21 plea agreement in this case. I'm marking it
22 as Court Exhibit 1.

23 Could you please take a look at this,
24 Mr. Rodriguez, and tell me first of all, if
25 you have seen it before.

Proceedings

17

1 THE DEFENDANT: Yes, I have.

2 THE COURT: Have you had a chance to
3 read it?

4 THE DEFENDANT: Yes.

5 THE COURT: And have you discussed it
6 with your attorney?

7 THE DEFENDANT: Uh-huh.

8 THE COURT: And do you understand what
9 it says?

10 THE DEFENDANT: Yes.

11 THE COURT: And would you flip to the
12 last page for me and tell me is that your
13 signature there?

14 THE DEFENDANT: Yes, it is.

15 THE COURT: Does this agreement fully
16 and accurately reflect your understanding of
17 the agreement that you have with the
18 government?

19 THE DEFENDANT: Yes.

20 THE COURT: Other than the promises
21 that are set forth in the agreement, has
22 anyone made any other promise that has caused
23 you to plead guilty here?

24 THE DEFENDANT: No.

25 THE COURT: Has anyone made any

Proceedings

18

1 promise as to what your sentence will be?

2 THE DEFENDANT: No.

3 THE COURT: I want to briefly discuss
4 with you the sentencing scheme that applies
5 here. The statute you're accused of violating
6 carries a minimum term of imprisonment of zero
7 years and a maximum of up to possibly three
8 years in prison.

9 Now there are in effect what are
10 called sentencing guidelines and those
11 guidelines determine where within that zero to
12 three year range your sentence will fall.

13 Those guidelines determine how high a
14 sentence Judge Gleeson can impose and how low
15 a sentence he can impose. And there may be
16 certain factors that come into play at the
17 time of sentencing that would allow the judge
18 to depart either upwardly or downwardly from
19 your guideline range depending on the
20 circumstances.

21 Do you understand all of that?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: The important thing that
24 you must understand is that until the time of
25 sentencing when Judge Gleeson is going to get

Proceedings

19

1 what is called a presentence report which will
2 be prepared by the probation department
3 following your plea here and he has an
4 opportunity to hear from you and to hear from
5 your attorney, and to hear from the
6 government, until that time, no one can
7 promise you exactly what your sentence will
8 be; not your attorney, not the government, not
9 me, not even Judge Gleeson until then.

10 Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay.

13 Nevertheless, I am going to ask the
14 government just to put on the record what your
15 estimate of the guideline range would be based
16 on what we know today.

17 MR. SMITH: Your Honor, our estimate
18 is reflected in the plea agreement and I
19 believe it's 24 to 30 months. I know -- I've
20 discussed this with Mr. Celedonio, he does not
21 share that estimate but that is the
22 government's estimate.

23 MR. CELEDONIO: The government is
24 correct, your Honor. We "don't share" the
25 estimate. By that, we only mean, your Honor,

Proceedings

20

1 that we reserve the right at sentencing to
2 argue against some or all of the enhancements
3 that are contemplated in the agreement. But
4 clearly, we're not addressing anything that
5 relates to an appeal right or anything like
6 that. Simply, the extent to which certain of
7 the enhancements are or are not applicable.

8 THE COURT: Okay. I guess I'm a
9 little confused then by the last sentence in
10 the paragraph --

11 MR. CELEDONIO: In paragraph 3,
12 your Honor?

13 THE COURT: -- which sets forth the
14 guideline calculation. It says, "The
15 defendant agrees to this guidelines
16 calculation." That doesn't seem to be what
17 you're saying.

18 MR. CELEDONIO: Well, I understand
19 that the statement in the plea agreement is
20 that it doesn't necessary say that we are
21 bound by it. And the parties agree,
22 your Honor, as the government has stated, that
23 we may take an adverse position with regard to
24 the enhancements at sentencing, your Honor.

25 MR. SMITH: Your Honor, I think to put

Proceedings

21

1 more of a point on it is the discussions
2 Mr. Celedonio and I had were that under the
3 guidelines, these enhancements as they're
4 listed are appropriate. There's a basis for
5 them certainly. Mr. Celedonio has asked to
6 reserve the right and the government has
7 agreed to make motions to ask for a departure
8 or ask to not apply these even though on their
9 face, they would seem to apply. I think
10 that's correct.

11 THE COURT: Well, I don't -- I mean,
12 you know, Judge Gleeson may disagree with me
13 but I don't read that sentence that way. I
14 read that sentence as binding the defendant to
15 the calculation of a 24 to 30 month sentence.
16 I mean, if that's not what it's intended to
17 say, I think you should clarify it or strike
18 it. I mean, I --

19 MR. SMITH: Judge, I don't have a
20 problem striking it and the statements we both
21 made on the clear make clear what both of our
22 understanding is about the agreement.

23 THE COURT: I think it's just safer,
24 counsel, to strike it.

25 MR. CELEDONIO: Agreed, your Honor.

Proceedings

22

1 THE COURT: I think --

2 MR. CELEDONIO: I think striking it
3 resolves it, your Honor.

4 THE COURT: Okay. So, I am going to
5 strike it and I'm going to ask you to initial
6 it and that way, we won't have any argument
7 later down the line if there's another
8 prosecutor who happens to take over the case
9 at the time of sentencing.

10 So, Mr. Rodriguez, essentially the
11 government has estimated that based on all of
12 the factors they have included in the plea
13 agreement, they believe that you are looking
14 at a potential sentence of somewhere between
15 24 to 30 months, assuming that you fall within
16 criminal history category one.

17 Your attorney has indicated that he
18 may make certain arguments to Judge Gleeson at
19 the time of sentencing that would presumably
20 reduce the guideline calculation in several of
21 these factors.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: Okay.

25 Now I want to just address briefly one

Proceedings

23

1 issue. There has been a recent decision by
2 the supreme court, you may have heard of it
3 referred to as the Blakely decision, in which
4 the supreme court has raised certain questions
5 about the continued viability or applicability
6 of the guidelines to cases such as yours.

7 Now scholars are arguing the merits of
8 this issue right now. So, we don't really
9 know how it's going to come out. It's
10 entirely possible that the Court could decide
11 that the guidelines are unconstitutional.

12 If that's the case, you still would be
13 sentenced somewhere between zero and three
14 years, which is what is set by the statute.

15 Now in the plea agreement, you have
16 agreed that you --

17 MR. CELEDONIO: Excuse me, your Honor.

18 THE COURT: Yes.

19 MR. CELEDONIO: The Court just said
20 zero and three years. I believe it's zero and
21 30 months.

22 I stand corrected, your Honor. I
23 apologize.

24 THE COURT: No, I'm talking about the
25 statutory penalties.

Proceedings

24

1 MR. CELEDONIO: That's correct,
2 your Honor. I apologize.

3 THE COURT: Okay.

4 In the plea agreement, however, you
5 have agreed that your sentence will be
6 governed by the guidelines and that you have
7 given up any right to challenge the
8 constitutionality or the validity of the
9 guidelines.

10 Do you understand that you have agreed
11 to that?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay.

14 You have also agreed that any facts
15 that are used to determine the offense level
16 which is what we were just talking about a
17 minute ago, the guideline -- the various
18 factors that go into the guideline
19 calculation, you've agreed that that will be
20 found by the Court at the time of sentencing
21 and you've given up your right to have a jury
22 make that decision.

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: Okay.

Proceedings

25

1 Now, you also understand that the
2 guideline calculation that the government just
3 put on the record and that's set forth in the
4 plea agreement is not binding on the probation
5 department or the Court. If the Court or the
6 probation department determines that a
7 different guideline range should apply in your
8 case, you understand you will not be allowed
9 to withdraw your guilty plea.

10 Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay.

13 Now under normal circumstances, you
14 can appeal your conviction if you believed
15 that your guilty plea here was somehow
16 unlawful or involuntary or there was some
17 other fundamental defect in these proceedings
18 that was not waived by your plea.

19 You also have a statutory right to
20 appeal your sentence under certain
21 circumstances if you believed that your
22 sentence is contrary to law.

23 However, in the plea agreement, you
24 have indicated that you will not file an
25 appeal or otherwise challenge your conviction

Proceedings

26

1 or your sentence so long as the Court imposes
2 a term of imprisonment of 30 months or less.

3 Do you understand that you've agree
4 dot that?

5 THE DEFENDANT: Yes, yes.

6 THE COURT: Okay.

7 Now also as a result of your plea
8 here, you face a term of supervised release.

9 Do you know what supervised release
10 is?

11 THE DEFENDANT: Yes.

12 THE COURT: Basically, once you've
13 completed any sentence of imprisonment that
14 you're directed to serve, you'll be released
15 from jail but there might be certain
16 restrictions placed on your freedom. You
17 might have to report to a probation officer on
18 a periodic basis and there may be other
19 restrictions, as well.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Okay.

23 As a result of your plea, you face a
24 possible maximum term of supervised release of
25 one year and if you violate any of the

Proceedings

27

1 conditions of supervised release, you can be
2 sentenced up to one year in prison without
3 getting credit for the time that you
4 previously served in prison and without
5 getting credit for the time that you served
6 successfully on supervised release up until
7 the date of the violation.

8 Do you understand all of that?

9 THE DEFENDANT: Yes, I do.

10 THE COURT: Okay.

11 Do you also understand that you face
12 potential fine in this case? The maximum fine
13 is \$250,000.

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: And you must pay a \$100
17 special assessment.

18 Do you understand that, as well?

19 THE DEFENDANT: Yes.

20 THE COURT: Anything else about the
21 plea agreement that I should review with the
22 defendant?

23 MR. SMITH: No, your Honor.

24 MR. CELEDONIO: No, your Honor.

25 THE COURT: Mr. Rodriguez, do you have

Proceedings

28

1 any questions that you would like to ask me
2 about the charge or your rights or the plea
3 agreement or anything else before we proceed?

4 THE DEFENDANT: No, your Honor.

5 THE COURT: Are you ready to plead at
6 this time?

7 THE DEFENDANT: Yes, I am.

8 THE COURT: Counsel, do you know of
9 any reason why the defendant should not plead
10 guilty?

11 MR. CELEDONIO: None, your Honor.

12 THE COURT: Are you aware of any
13 viable legal defense to the charge?

14 MR. CELEDONIO: None, your Honor.

15 THE COURT: Angel Rodriguez, what is
16 your plea to the charge contained in
17 superseding information 03-cr-372-S-5; guilty
18 or not guilty?

19 THE DEFENDANT: Guilty.

20 THE COURT: Are you making this plea
21 of guilty voluntarily and of your own free
22 will?

23 THE DEFENDANT: Yes, I am.

24 THE COURT: Has anyone threatened or
25 forced you to plead guilty?

Proceedings

29

1 THE DEFENDANT: No.

2 THE COURT: Has anyone made any
3 promise to you as to exactly what your
4 sentence will be?

5 THE DEFENDANT: No.

6 THE COURT: Okay.

7 I read the charge to you a few minutes
8 ago. I want you to tell me in your own words
9 exactly what it is that you did on or about
10 April 10, 1999 in connection with this
11 conspiracy.

12 THE DEFENDANT: I was present at a
13 club here in Brooklyn and there came a point
14 in time that several individuals were beating
15 up a guy named Renaldo Pena (phonetic). I
16 knew that Renaldo Pena was a cab driver and I
17 also knew that Pena rented a gypsy cab from
18 Alta Gracia (phonetic), which was Callio's
19 (phonetic) girlfriend.

20 Callio was one of the guys beating up
21 Pena. During the assault on Pena, I realized
22 that Callio was seeking to obtain money owed
23 to his girlfriend Alta Gracia. Despite this
24 knowledge, I concealed and did not make these
25 facts known to a judge or any other person in

Proceedings

30

1 authority.

2 THE COURT: Okay.

3 And this happened on April 10, 1999?

4 THE DEFENDANT: On April 10, 1999.

5 THE COURT: Anything else?

6 MR. SMITH: No.

7 THE COURT: Okay.

8 Based on the information given to me,
9 I find that the defendant is acting
10 voluntarily, fully understands his rights and
11 the consequences of his plea and that there is
12 a factual basis for the plea.

13 I will recommend to Judge Gleeson that
14 he accepts your plea of guilty to the charge
15 contained in the superseding information.

16 What happens next, Mr. Rodriguez, is
17 you're going to go over to the probation
18 department to set up an appointment for your
19 interview for the presentence report that we
20 talked a little bit about earlier. I urge you
21 to cooperate with them, obviously with
22 counsel's advice and I believe we have a date
23 set for sentencing.

24 THE CLERK: January 7.

25 THE COURT: January 7.

Proceedings

31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE CLERK: At 2 p.m.

THE COURT: At 2.p.m. Okay?

Anything else?

MR. SMITH: No.

MR. CELEDONIO: Have a good day,
your Honor.

THE COURT: Thank you very much.

MR. SMITH: Thank you.

(Matter concluded)

-oOo-

C E R T I F I C A T E

I, ROSALIE LOMBARDI, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 1st day of November, 2004.

-----*Rosalie Lombardi*-----

Rosalie Lombardi
Transcription Plus II